

Appl. No. 10/063,826
Docket No. 122261/GBM-0003

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REMARKS / ARGUMENTS

Status of Claims

Claims 1-33, 35 and 36 are pending in the application and stand rejected. A listing of claims is not provided per 37 CFR 1.121 as no claim amendments are submitted with this response.

Rejections Under 35 U.S.C. §103(a)

Claims 1-33 and 35-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Dumoulin (U.S. Patent No. 6,198,282, hereinafter Dumoulin) in view of Miyazaki et al. (U.S. Patent No. 6,320,377, hereinafter Miyazaki).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

In the Office Action, the Examiner acknowledges that Dumoulin does not teach the use of nested pulses or multiple sequences, and looks to Miyazaki to cure this deficiency. In the Response to Arguments at Page 2 of the Office Action, the Examiner states that in reference to coincidental nesting, Miyazaki teaches an interleaved mode of nesting (Col. 14, lines 41-67, Col. 15, lines 1-10). Applicant respectfully disagrees and contends that the rejection details in the Office Action mischaracterize the teachings of Miyazaki with regard to interleave mode of nesting and do not provide the teaching or explanation as to how interleave mode of nesting is equivalent to the coincidental nesting of Applicant's claims. It appears that the reference to sequential nesting in the previous

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Office Action was merely replaced with the above citation referring to interleave mode without any further explanation or details.

Applicant finds no disclosure in Miyazaki of said nested pulse having portions coincident with said nesting pulse. As best understood by Applicant, Miyazaki discloses an interleave sequence where "after given times," certain pulses are applied and certain sequences are performed, thus elapsing a time TR. (Figure 15 and Col. 14, line 41 through Col. 15, line 10.) That is, the pulses and sequences occur in some order after given times. There is no disclosure of any part of the sequence being coincident with another part of the sequence.

Additionally, common definitions of interleave include "intersperse" and "intersperse alternately" (*WordNet* ® 2.0, © 2003 Princeton University) or "to arrange in or as if in alternate layers" (Merriam-Webster Online Dictionary copyright © 2005 by Merriam-Webster, Incorporated). Clearly, interleave cannot be understood to mean coincident as in the claimed invention.

If Miyazaki were to be combined with Dumoulin as suggested by the Examiner, one skilled in the art would arrive at *interspersed or interleaved nesting* and not *coincidental nesting*. Accordingly, the combination of Miyazaki and Dumoulin does not teach or suggest each and every element of the claimed invention, and does not motivate one skilled in the art to do what only the Applicant has done.

Furthermore, if Miyazaki and Dumoulin were combined and modified to arrive at coincidental nesting, the references would not perform as they were initially intended, that is, with interleaved nesting. Therefore, there exists no further motivation to combine or modify the references as suggested by the Examiner.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and disclose a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

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In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §103(a) have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

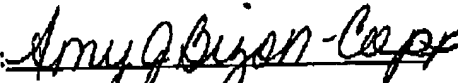
The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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